

IN THE UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

FILED 12/16/08 P 3:47

KIMBERLY K. BULL,

Plaintiff,

v.

GROUP LONG TERM DISABILITY
PLAN FOR TFE, INC.,

TFE, Inc.,

and

UNUM LIFE INSURANCE COMPANY
OF AMERICA

Defendants.

U.S. DISTRICT COURT
EASTERN DIST. TENN.

Case No. 1:08-cv-289

Collins/Carter

Federal
original

NOTICE OF REMOVAL

Defendants, Group Long Term Disability Plan for TFE, Inc., TFE, Inc. and Unum Life Insurance Company of America, by and through the undersigned counsel, file this notice of removal in the above referenced state court action pursuant to 28 U.S.C. §1441. In support of this Notice of Removal, Defendants show as follows:

1. On November 17, 2008, a Complaint was filed against the above-named Defendants in the state court of Hamilton County, Tennessee, entitled *Kimberly K. Bull v. Group Long Term Disability Plan for TFE, Inc., TFE, Inc. and Unum Life Insurance Company of America*, case number 08-0891, in the Chancery Court for Hamilton County, Tennessee.

2. Unum Life Insurance Company of America's agent for service of process was served on November 24, 2008.

3. Group Long Term Disability Plan for TFE, Inc. and TFE, Inc. were served with a copy of the summons and complaint on November 18, 2008.

4. Plaintiff's complaint was the first pleading filed of record and served from which Defendants could ascertain that Plaintiff's case arose under federal law and was thus removable to this Court, and this Notice of Removal has been filed within 30 days of the service of the Complaint on all Defendants.

5. Pursuant to 28 U.S.C. §1446(a) copies of the summons and complaint as well as all other "process, pleadings and orders" served on Defendants to date are attached to this Notice of Removal as collective **Exhibit A**.

6. Venue is proper in this district and division pursuant to 28 U.S.C. §1441(a), because this district and division embraces the place in which the removed action had been pending, i.e. Hamilton County, Tennessee.

7. This Notice of Removal is based upon 28 U.S.C. §1441(b), which states that "[a]ny civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States shall be removable without regard of the citizenship or residents of the parties."

8. This court possesses original jurisdiction over this civil action because it involves a federal question under the provisions of the Employment Retirement Income Security Act, 29 U.S.C. §§1001 *et seq.* ("ERISA"). More specifically, and as set forth in Plaintiff's Complaint, Plaintiff "brings this action to recover benefits due her for long-term disability payments under the terms of the plan pursuant to the provisions of the Employment Retirement Income Security Act, 29 U.S.C. §1001 *et seq.* . . . and particularly 29 U.S.C. §1132(a)(1)(B)." (Complaint at ¶5). Accordingly, this action is completely preempted by the provisions of ERISA, and this Court has original jurisdiction over same.

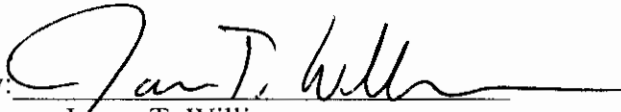
9. Defendants are simultaneously filing a copy of this Notice of Removal with the State Court of Hamilton County, Tennessee, and has given notice of same to Plaintiff as required by 28 U.S.C. §1446(b).

10. Defendants specifically reserve all defenses including, without limitation, all defenses specified in Rule 12(b) of the Federal Rules of Civil Procedure.

WHEREFORE, Defendants request this case be removed from the State Court of Hamilton County, Tennessee and proceed in the United States District Court for the Eastern District of Tennessee, Southern Division, as an action properly removed hereto.

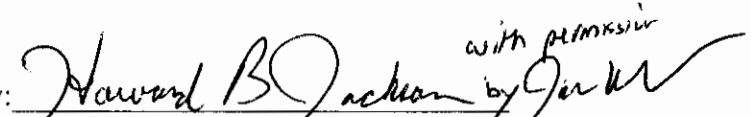
Respectfully submitted,

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*Attorneys for Group Long Term Disability Plan
For TFE, Inc. and TFE, Inc.*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that an exact copy of the foregoing pleading has been served upon all counsel at interest in this case, by delivering a true and exact copy to the offices of counsel of record shown at the addresses below, by placing a copy in the United States mail, postage pre-paid.

John B. Dupree
McGehee, Stewart, Cole, Dupree & Roper, P.A.
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This 16th day of December, 2008.

MILLER & MARTIN PLLC

By: 